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that burned over the land was set out by defendant railroad company.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. §§ 1730-1732, 1734-1736; Dec. Dig. § 482.* 6 Va.-W. Va. Enc. Dig. 135; 14 Va.-W. Va. Enc. Dig. 454; 15 Va.-W. Va. Enc. Dig. 406.]

7. Appeal and Error (§ 1001*)—Verdict—Evidence—Support.—The jury may discard the preponderance of the evidence as unworthy of credence, and accept that of a single witness on which to base a verdict, and hence a verdict cannot be disturbed if the evidence of that witness is sufficient standing alone to sustain it under the rule that it may not be set aside, unless there is a palpable insufficiency of evidence.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 3922, 3928-3934; Dec. Dig. § 1001.* 10 Va.-W. Va. Enc. Dig. 458; 14 Va.-W. Va. Enc. Dig. 781; 15 Va.-W. Va. Enc. Dig. 740.]

Error to Circuit Court, Orange County.

Action by Josephine M. Chapman against the Chesapeake & Ohio Railway Company. Judgment for plaintiff, and defendant brings error. Affirmed.

Browning & Browning, of Orange, and *Henry Taylor, Jr.*, of Richmond, for plaintiff in error.

Gordon & Gordon, of Louisa, and *V. R. Shackelford*, of Orange, for defendant in error.

RAFFERTY et al. v. HEATH et al.

June 12, 1913.

[78 S. E. 641.]

1. Exchange of Property (§ 3*)—Exchange of Real Property—Rescission—Fraud.—Where one exchanging an apartment house for a farm falsely represented to the owner of the farm the value of the apartment house, the cost thereof, and the annual rentals, the owner of the farm, relying on the representations in making the exchange, was entitled to a rescission on the ground of fraud.

[Ed. Note.—For other cases, see Exchange of Property, Cent. Dig. §§ 3, 7; Dec. Dig. § 3.* 5 Va.-W. Va. Enc. Dig. 402.]

2. Cancellation of Instruments (§ 23*)—Equitable Relief—Terms.—A party suing to rescind a contract can obtain relief only on equitable terms, and, where equity finds that a condition exists which renders it impossible to restore the parties substantially to their original position and that to rescind will result in injustice, a rescission will be denied.

[Ed. Note.—For other cases, see Cancellation of Instruments, Cent.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

Dig. § 32; Dec. Dig. § 23.* 11 Va.-W. Va. Enc. Dig. 894; 14 Va.-W. Va. Enc. Dig. 899; 15 Va.-W. Va. Enc. Dig. 873.]

3. Exchange of Property (§ 5*)—Rescission—Equitable Relief—Terms.—Where an owner of a farm, induced by fraud to exchange it for other property, accounted for the income received from the other property, and promptly sought a rescission on the ground of the fraud, the mere fact that the adverse party, guilty of the fraud, had placed a mortgage on the farm, did not defeat a rescission.

[Ed. Note.—For other cases, see Exchange of Property, Cent. Dig. §§ 5, 6, 8-10; Dec. Dig. § 5.* 5 Va.-W. Va. Enc. Dig. 402.]

Appeal from Circuit Court, Mathews County.

Suit by one Heath and others against one Rafferty and others. From a decree for complainants, defendants appeal. Affirmed.

John S. Barbour, of Fairfax, *Sleman & Lerch*, of Washington, D. C., and *J. Boyd Sears*, of Mathews, for appellants.

Sale, Mann & Tyler, of Norfolk, and *Henley, Garnett & Hall*, of Williamsburg, for appellees.

JORDAN et al. v. WALKER.

June 12, 1913.

[78 S. E. 643.]

1. Appeal and Error (§ 927*)—Review—Demurrer to Evidence.—On a demurrer to the evidence, where it is such that a jury might have found for the demurree, it is the duty of the Court of Appeals to so find.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 2912, 2917, 3748, 3758, 4024; Dec. Dig. § 927.* 4 Va.-W. Va. Enc. Dig. 540; 14 Va.-W. Va. Enc. Dig. 331; 15 Va.-W. Va. Enc. Dig. 284.]

2. Fraud (§ 22*)—Deceit—Duty to Investigate.—Where a defendant, who was a director of a corporation and had knowledge of its insolvent condition, represented to plaintiff, who was also a director, to induce him to purchase defendant's stock and that of another, that the corporation was not only solvent, but had a surplus of 3,000 in excess of its liabilities and capital stock, and immediately afterwards it was found that the corporation could not be continued, and on a sale of its assets in receivership proceedings the assets were only sufficient to pay creditors 30 per cent. of their claims, it was no answer to defendant's liability for fraud that plaintiff should not have relied on such representations, but should have investigated the corporation's condition for himself.

[Ed. Note.—For other cases, see Fraud, Cent. Dig. §§ 19-23; Dec. Dig. § 22.* 6 Va.-W. Va. Enc. Dig. 466; 14 Va.-W. Va. Enc. Dig. 471.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.